



**THE ATTORNEY GENERAL  
OF TEXAS**

July 9, 1990

**JIM MATTOX  
ATTORNEY GENERAL**

Honorable Sam W. Dick  
Criminal District Attorney  
Fort Bend County  
County Courthouse  
Richmond, Texas 77469

LO-90-40

Dear Mr. Dick:

You ask a number of questions about the authority of a commissioners court to control salaries and promotions of employees of an elected official.

Several of your questions deal with the authority of a commissioners court to set salaries for specific positions and the authority to set salaries for individual employees. Section 152.011 of the Local Government Code provides:

The commissioners court of a county shall set the amount of the compensation, office and travel expenses, and all allowances for county and precinct officers and employees who are paid wholly from county funds.

In other words, it is the responsibility of the commissioners court to set salaries. The commissioners court may choose to follow the recommendations of an elected county official, but it is not required to do so. See Commissioners Court of Caldwell County v. Criminal District Attorney, 690 S.W.2d 932 (Tex. Civ. App. - Austin 1985, writ ref'd n.r.e.); Attorney General Opinion H-1113 (1978).

The commissioners court is prohibited, however, from influencing the selection of the person to fill positions in the offices of elected county officials. Local Gov't Code § 151.004. See Renfro v. Shropshire, 566 S.W.2d 688 (Tex. Civ. App. - Eastland 1978, writ ref'd n.r.e.) (commissioners court has no right to veto appointments made by the county clerk at various salary steps in the county clerk's office).

In other words, the commissioners court has authority to determine the salary that attaches to a particular position in the office of an elected county official; however,

the commissioners court does not have authority to determine what individuals fill those positions.

You also ask whether the commissioners court may delegate its authority to set salaries to a personnel director or personnel board. A commissioners court's authority to set salaries may not be delegated. See Guerro v. Rodriguez, 239 S.W.2d 915 (Tex. Civ. App. - San Antonio 1951, no writ). Even if a commissioners court generally follows the recommendations of a personnel officer, the ultimate authority to determine salaries lies with the commissioners court.

Your also ask about the meaning of the phrase "the title of the position to be filled" in section 151.001 of the Local Government Code. Section 151.001 provides that a county officer who requires the assistance of deputies, assistants, or clerks must apply to the commissioners court for authority to appoint such employees. In making application the officer must state "the title of the positions to be filled." Local Gov't Code § 151.001(b)(2). You ask whether the title of the position must be more specific than simply "deputy" or "assistant." A county officer must provide information necessary for the preparation of the budget. Id. sec. 111.005. Consequently, we think a commissioners court could ask for a title more descriptive than simply "deputy" or "assistant." What would be necessary in a particular instance would have to be determined on a case-by-case basis.

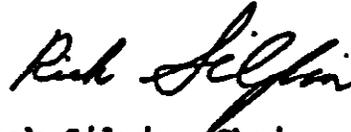
Finally, you ask whether the commissioners court has authority to amend the county budget and thereby reduce the budget of one elected official but the not budget of any other county official. You also ask whether the commissioners court must consult the affected county officer before it does so. Section 111.010(d) of the Local Government Code provides as follows:

The commissioners court by order may amend the budget to transfer an amount budgeted for one item to another budgeted item without authorizing a. emergency expenditure.

That language on its face would allow the county budget to be amended to allow funds budgeted for one county office to be transferred to another office. But see Local Gov't Code § 152.013 (salaries of elected officials may only be set at regular budget meeting). We cannot determine whether there would be impediments to a specific budget reduction. Notice

requirements that would be relevant to budget decisions are set out in chapter 111 of the Local Government Code and in the Open Meetings Act, article 6252-17, V.T.C.S.

Very truly yours,



Rick Gilpin, Chairman  
Opinion Committee



Sarah Woelk, Chief  
Letter Opinion Section

Prepared by: Tom G. Davis

APPROVED: OPINION COMMITTEE

RG/SW/TGD/er

Ref.: RQ-1945  
ID-8909